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HOUSE BILL 52

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR VOTER REGISTRATION AT
EARLY VOTING SITES AND ON ELECTION DAY FOR PRIMARY AND GENERAL
ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 1, Article 6 NMSA
1978 is enacted to read:

"[NEW MATERIAL] EARLY VOTING--REGISTRATION PROCEDURES.--

A. If a qualified elector is not registered to vote
and is at an early voting site in the county in which the
qualified elector resides, the qualified elector shall be
allowed to complete a certificate of registration and cast a
ballot from the precinct in which the qualified elector
resides; provided that the qualified elector:

- (1) presents a physical form of identification

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1 as defined in Section 1-1-24 NMSA 1978 to the county clerk or
2 the clerk's authorized representative;

3 (2) subscribes an application to vote in
4 accordance with secretary of state rules; and

5 (3) signs or marks the signature roster.

6 B. Once the certificate of registration is
7 accepted, the county clerk or the clerk's authorized
8 representative shall add the voter's name and address in ink to
9 the signature roster on the line immediately following the last
10 entered voter's name.

11 C. For the registration purposes, "early voting
12 site" means an alternate voting site or the office of the
13 county clerk during the time when in-person absentee voting is
14 being conducted."

15 Section 2. Section 1-1-24 NMSA 1978 (being Laws 2005,
16 Chapter 270, Section 6, as amended) is amended to read:

17 "1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the
18 Election Code, "required voter identification" means any of the
19 following forms of identification as chosen by the ~~[voter]~~
20 qualified elector:

21 A. a physical form of identification, which may be:

22 (1) an original or copy of a current and valid
23 photo identification with ~~[or without]~~ an address, which
24 address is ~~[not]~~ required to match the ~~[voter's certificate of]~~
25 qualified elector's registration address; or

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1 (2) an original or copy of a utility bill,
2 bank statement, government check, paycheck, student
3 identification card or other government document, including
4 identification issued by an Indian nation, tribe or pueblo,
5 that shows the name and address of the person, the address of
6 which is [not] required to match the [~~voter's certificate of~~
7 qualified elector's registration address]; or

8 B. a verbal or written statement by the voter of
9 the voter's name, registration address and year of birth;
10 provided, however, that the statement of the voter's name need
11 not contain the voter's middle initial or suffix."

12 Section 3. Section 1-1-16 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 16, as amended) is amended to read:

14 "1-1-16. REGISTRATION OFFICER.--As used in the Election
15 Code, "registration officer" means the secretary of state, a
16 county clerk or a clerk's authorized [~~deputy~~] representative, a
17 member of a precinct board on election day, a member of the
18 board of registration or a state employee performing
19 registration duties in accordance with the federal National
20 Voter Registration Act of 1993 or Section 1-4-5.2 NMSA 1978."

21 Section 4. Section 1-4-5.1 NMSA 1978 (being Laws 1993,
22 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
23 as amended) is amended to read:

24 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

25 A. A qualified elector may apply for registration:

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- 1 (1) by mail;
- 2 (2) in the office of the secretary of state or
- 3 county clerk [øx];
- 4 (3) with a registration agent or officer; or
- 5 (4) with a precinct board member on election
- 6 day at a polling place in the precinct in which the qualified
- 7 elector resides.

8 B. A person may request certificate of registration

9 forms from:

10 (1) the secretary of state or any county clerk

11 in person, by telephone or by mail for that person or for other

12 persons;

13 (2) a precinct board member on election day at

14 a polling place in the precinct in which the qualified elector

15 resides; or

16 (3) a county clerk or the clerk's authorized

17 representative at an early voting site.

18 C. Except as provided in Subsection D of this

19 section, a qualified elector who wishes to register to vote

20 shall fill out completely and sign the certificate of

21 registration. The qualified elector may seek the assistance of

22 any person in completing the certificate of registration.

23 D. A qualified elector who has filed for an order

24 of protection pursuant to the provisions of the Family Violence

25 Protection Act and who presents a copy of that order from a

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1 state or tribal court to the registration officer shall not be
2 required to provide physical residence address information on
3 the certificate of registration.

4 E. Completed certificates of registration may be:

5 (1) mailed or presented in person by the
6 registrant or any other person to the secretary of state; ~~[or]~~

7 (2) presented in person by the registrant or
8 any other person to the county clerk of the county in which the
9 registrant resides;

10 (3) completed on election day in person by the
11 registrant and presented to a precinct board member at a
12 polling place for the precinct in which the registrant resides;
13 or

14 (4) completed at an early voting site and
15 presented to the county clerk or the clerk's authorized
16 representative at the early voting site in the county in which
17 the qualified elector resides.

18 F. If the registrant wishes to vote in the ~~[next]~~
19 election, the completed and signed certificate of registration
20 shall be delivered or mailed and postmarked at least twenty-
21 eight days before the election, completed on election day in
22 person by the registrant and presented to a precinct board
23 member at a polling place for the precinct in which the
24 registrant resides or completed at an early voting site and
25 presented to the county clerk or the clerk's authorized

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1 representative at an early voting site in the county in which
2 the qualified elector resides.

3 G. Upon receipt of a certificate of registration,
4 the secretary of state shall send the certificate to the county
5 clerk in the county where the qualified elector resides.

6 H. Only when the certificate of registration is
7 properly filled out, signed by the qualified elector and
8 accepted for filing by the county clerk as evidenced by the
9 county clerk's signature or stamp and the date of acceptance
10 thereon and when notice has been received by the registrant
11 shall it constitute an official public record of the
12 registration of the qualified elector.

13 I. The secretary of state shall prescribe the form
14 of the certificate of registration, which form shall be a
15 postpaid mail-in format and shall be printed in Spanish and
16 English. The certificate of registration form shall be clear
17 and understandable to the average person and shall include
18 brief but sufficient instructions to enable the qualified
19 elector to complete the form without assistance. The form
20 shall also include:

21 (1) the question "Are you a citizen of the
22 United States of America?" and boxes for the applicant to check
23 to indicate whether the applicant is or is not a citizen;

24 (2) the question "Will you be at least
25 eighteen years of age on or before election day?" and boxes for

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1 the applicant to check to indicate whether the applicant will
2 be eighteen years of age or older on election day;

3 (3) the statement "If you checked 'no' in
4 response to either of these questions, do not complete this
5 form.";

6 (4) a statement informing the applicant that:

7 (a) if the form is submitted by mail by
8 the applicant and the applicant is registering for the first
9 time in New Mexico, the applicant must submit with the form a
10 copy of: 1) a current and valid photo identification; or 2) a
11 current utility bill, bank statement, government check,
12 paycheck, student identification card or other government
13 document, including identification issued by an Indian nation,
14 tribe or pueblo, that shows the name and current address of the
15 applicant; and

16 (b) if the applicant does not submit the
17 required identification, the applicant will be required to do
18 so when voting in person or absentee; and

19 (5) a statement requiring the applicant to
20 swear or affirm that the information supplied by the applicant
21 is true."

22 Section 5. Section 1-4-8 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 66, as amended) is amended to read:

24 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
25 REGISTRATION--CLOSE OF REGISTRATION--ELECTION-DAY REGISTRATION--

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1 EARLY VOTING SITE REGISTRATION--FEDERAL QUALIFIED ELECTORS AND
2 OVERSEAS VOTERS--LATE REGISTRATION.--

3 A. For qualified electors other than federal
4 qualified electors or overseas voters, the following provisions
5 shall apply:

6 (1) the county clerk shall receive
7 certificates of registration at all times during normal working
8 hours, except that the clerk shall close registration at
9 5:00 p.m. on the twenty-eighth day immediately preceding any
10 election at which the registration books are to be furnished to
11 the precinct board;

12 (2) on election day, the county clerk shall
13 accept for filing certificates of registration for qualified
14 electors who register to vote on election day at a polling
15 place for the precinct in which the qualified elector resides;

16 (3) during the period when early voting sites
17 are open, the county clerk shall accept for filing certificates
18 of registration from qualified electors who register to vote at
19 an early voting site in the county in which the qualified
20 elector resides;

21 [~~2~~] (4) registration shall be reopened on
22 the Monday following the election;

23 [~~3~~] (5) for purposes of a municipal or
24 school election, the registration period for those precincts
25 within the municipality or school district is closed at 5:00

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1 p.m. on the twenty-eighth day immediately preceding the
2 municipal or school election and is opened again on the Monday
3 following the election;

4 [~~(4)~~] (6) during the period when registration
5 is closed, the county clerk shall receive certificates of
6 registration and other documents pertaining thereto but, except
7 for certificates of registration received on election day or
8 from an early voting site, shall not file [~~the~~] any certificate
9 of registration in the registration book until the Monday
10 following the election, at which time a voter information
11 document shall be mailed to the registrant at the address shown
12 on the certificate of registration;

13 [~~(5)~~] (7) when the twenty-eighth day prior to
14 any election referred to in this section is a Saturday, Sunday
15 or legal holiday, registration shall be closed at 5:00 p.m. of
16 the next succeeding regular business day for the office of the
17 county clerk; and

18 [~~(6)~~] (8) the county clerk shall accept for
19 filing any certificate of registration that is subscribed and
20 dated on or before the twenty-eighth day preceding the election
21 and:

22 (a) received by the county clerk before
23 5:00 p.m. on the Friday immediately following the close of
24 registration;

25 (b) mailed and postmarked not less than

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1 twenty-eight days prior to any election referred to in this
2 section; or

3 (c) accepted at a state agency
4 designated pursuant to Section 1-4-5.2 NMSA 1978.

5 B. For federal qualified electors and overseas
6 voters, the county clerk shall accept a certificate of
7 registration by electronic transmission from a voter qualified
8 to apply for and vote by absentee ballot in the county if the
9 transmission is received before 5:00 p.m. on the Friday
10 immediately preceding the election."

11 Section 6. Section 1-12-7.2 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 114, as amended) is amended to read:

13 "1-12-7.2. [VOTER] QUALIFIED ELECTOR WHOSE NAME IS NOT ON
14 LIST OR ROSTER--ELECTION-DAY REGISTRATION.--

15 A. A [voter] qualified elector whose name does not
16 appear on the voter list and signature roster for the precinct
17 in which [he] the qualified elector offers to vote may register
18 to vote and shall be permitted to vote on election day in the
19 precinct pursuant to the federal National Voter Registration
20 Act of 1993, this section and Section 1-12-8 NMSA 1978.

21 ~~[B. The election clerks in charge of the signature~~
22 ~~rosters shall add the voter's name and address in ink to the~~
23 ~~signature roster on the line immediately following the last~~
24 ~~entered voter's name and the voter shall be allowed to sign an~~
25 ~~affidavit of eligibility and cast a provisional paper ballot,~~

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1 ~~provided he has first signed or marked both the signature~~
2 ~~roster and checklist of registered voters.]~~

3 B. If the qualified elector is not registered to
4 vote and is at the polling place for the precinct in which the
5 qualified elector resides, the qualified elector shall be
6 allowed to complete a certificate of registration and cast a
7 ballot; provided that:

8 (1) the qualified elector presents a physical
9 form of identification as defined in Section 1-1-24 NMSA 1978;
10 and

11 (2) the qualified elector signs or marks the
12 signature roster.

13 C. Once the qualified elector is registered to
14 vote, the election clerks in charge of the signature rosters
15 shall add the voter's name and address in ink to the signature
16 roster on the line immediately following the last entered
17 voter's name.

18 [~~C.~~] D. The provisional paper ballot number for the
19 [~~voter~~] person shall be entered on the affidavit of
20 eligibility, the signature roster and the checklist of
21 registered voters.

22 [~~D.~~] E. In a primary election, a voter shall not be
23 permitted to vote for a candidate of a party different from the
24 party designation shown on [~~his~~] the voter's certificate of
25 registration. Upon making that determination, the county clerk

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1 shall transmit the ballot to the county canvassing board to be
2 tallied and included in the canvass of that county for the
3 appropriate precinct.

4 ~~[E.]~~ F. Verbal authorization from the county clerk
5 to allow a person to vote is not permitted."

6 Section 7. Section 1-12-8 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 247, as amended) is amended to read:

8 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

9 A. A person shall be permitted to vote on a
10 provisional paper ballot even though the person's original
11 certificate of registration cannot be found in the county
12 register or even if the person's name does not appear on the
13 signature roster, provided:

14 (1) the person's residence is within the
15 boundaries of the county in which the person offers to vote;

16 (2) the person's name is not on the list of
17 persons submitting absentee ballots; and either

18 (3) the person executes a statement swearing
19 or affirming to the best of the person's knowledge that the
20 person is a qualified elector, is currently registered and
21 eligible to vote in that county and has not cast a ballot or
22 voted in that election; or

23 (4) the person is not registered and attempts
24 to register to vote in accordance with the provisions of
25 Section 1-12-7.2 NMSA 1978 on election day or at an early

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1 voting site but cannot provide the required physical form of
2 identification.

3 B. A voter shall vote on a provisional paper ballot
4 if the voter:

5 (1) has not previously voted in a general
6 election in New Mexico or has been purged from the voter list;

7 (2) registered to vote by mail;

8 (3) did not submit the physical form of the
9 required voter identification with the certificate of
10 registration form; and

11 (4) does not present to the election judge a
12 physical form of the required voter identification.

13 C. A voter shall vote on a provisional ballot in
14 accordance with the provisions of Section 1-12-7.1 NMSA 1978 if
15 the voter does not provide the required voter identification to
16 the election judge.

17 D. An election judge shall have the voter sign the
18 signature roster and issue the voter a provisional paper
19 ballot, an outer envelope and an official inner envelope. The
20 voter shall vote on the provisional paper ballot in secrecy
21 and, when done, place the ballot in the official inner envelope
22 and place the official inner envelope in the outer envelope and
23 return it to the precinct officer. The election judge shall
24 ensure that the required information is completed on the outer
25 envelope, have the voter sign it in the appropriate place and

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1 place it in an envelope designated for provisional paper
2 ballots.

3 E. Knowingly executing a false statement
4 constitutes perjury as provided in the Criminal Code of this
5 state, and voting on the basis of such falsely executed
6 statement constitutes fraudulent voting."

7 Section 8. Section 1-12-8.1 NMSA 1978 (being Laws 2005,
8 Chapter 270, Section 62, as amended) is amended to read:

9 "1-12-8.1. CONDUCT OF ELECTION--USE OF VOTER'S RECEIPT OF
10 CERTIFICATE OF REGISTRATION--PROCEDURES.--If a [~~voter whose~~]
11 voter's name is not in the signature roster for the precinct in
12 which the voter resides and the voter presents the voter's
13 receipt of the voter's certificate of registration, the [voter
14 shall be allowed to vote on a provisional ballot in the proper
15 precinct in accordance with the provisions of Section 1-12-7.1
16 NMSA 1978. The] election judge shall inform the voter that the
17 voter will be notified by the county clerk to provide a copy of
18 the receipt of the certificate of registration to the county
19 clerk if the original certificate is not located. The voter
20 shall be allowed to register and cast a ballot as provided in
21 the Election Code. A note shall be entered on the signature
22 roster indicating that the voter's certificate of registration
23 should be checked by the county clerk. For the purposes of
24 investigation or prosecution, the county clerk shall provide
25 the district attorney and the secretary of state with the

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1 person's name and address and the corresponding receipt number
2 of the person's certificate of registration for each person
3 whose certificate of registration is not located."

4 Section 9. Section 1-12-20 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 273, as amended) is amended to read:

6 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A
7 challenge may be interposed by a member of the precinct board
8 or by a party challenger for the following reasons:

9 A. the person [~~presenting himself~~] who has come to
10 vote is not registered and is not a qualified elector;

11 B. the person [~~presenting himself~~] who has come to
12 vote is listed on the purge list placed with the signature
13 rosters or is listed among those persons in the precinct from
14 whom an absentee ballot was received;

15 C. the person [~~presenting himself~~] who has come to
16 vote is improperly registered because [~~he~~] the person is not a
17 qualified elector;

18 D. in the case of a primary election, the person
19 [~~presenting himself~~] who has come to vote is not affiliated
20 with a political party represented on the ballot; or

21 E. in the case of an absentee ballot, the official
22 outer envelope of the absentee voter has been opened prior to
23 the counting of the ballots."

24 Section 10. Section 1-12-25.4 NMSA 1978 (being Laws 2003,
25 Chapter 356, Section 7, as amended) is amended to read:

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1 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

2 A. Upon closing of the polls, provisional paper
3 ballots shall be delivered to the county clerk, who shall
4 determine if the ballots will be counted prior to certification
5 of the election.

6 B. A provisional paper ballot shall not be counted
7 if the registered voter did not sign either the signature
8 roster or the ballot's envelope.

9 ~~[C. If there is no record of the voter ever having~~
10 ~~been registered in the county, the voter shall be offered the~~
11 ~~opportunity to register and the provisional paper ballot shall~~
12 ~~not be counted.~~

13 ~~D.]~~ C. If the voter was registered in the county,
14 the registration was later canceled and the county clerk
15 determines that the cancellation was in error, the voter's
16 registration shall be immediately restored and the provisional
17 paper ballot counted.

18 ~~[E.]~~ D. If the county clerk determines that the
19 cancellation was not in error, the voter shall be offered the
20 opportunity to register at the voter's correct address, and the
21 provisional paper ballot shall not be counted.

22 ~~[F.]~~ E. If the voter is a registered voter in the
23 county, but has voted on a provisional paper ballot at a
24 polling place other than the voter's designated polling place,
25 the county canvassing board shall ensure that only those votes

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1 for the positions or measures for which the voter was eligible
2 to vote are counted.

3 ~~[G.]~~ F. If the county clerk finds that the voter
4 who voted on a provisional paper ballot at the polls has also
5 voted an absentee ballot in that election, the provisional
6 paper ballot shall not be counted.

7 ~~[H.]~~ G. The county canvassing board shall prepare a
8 tally displaying the number of provisional paper ballots
9 received, the number found valid and counted, the number
10 rejected and not counted and the reason for not counting the
11 ballots as part of the canvassing process and forward it to the
12 secretary of state immediately upon certification of the
13 election.

14 ~~[I.]~~ H. The secretary of state shall issue rules to
15 ensure securing the secrecy of the provisional paper ballots,
16 especially during canvassing, reviewing or recounting, and
17 protecting against fraud in the voting process."

18 Section 11. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2009.